Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Carlos Thomas a prisoner at HMP Oakwood on 18 May 2017

A report by the Prisons and Probation Ombudsman

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Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*
Respectful: *we are considerate and courteous*
Inclusive: *we value diversity*
Dedicated: *we are determined and focused*
Fair: *we are honest and act with integrity*

The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out **independent** investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

My office carries out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mr Carlos Thomas died of bronchopneumonia and oesophageal cancer on 18 May, while a prisoner at HMP Oakwood. He was 81 years old. We offer our condolences to Mr Thomas' family and friends.

The clinical reviewer concluded that the clinical care Mr Thomas received during his short time at Oakwood was not equivalent to that which he could have expected to receive in the community: his care plans were not followed and he was not taken to hospital as he should have been when a doctor requested it, and this failure was not noticed for 10 days.

Despite repeat recommendations to Oakwood, we are also concerned that Mr Thomas was restrained when he was taken to hospital without a full risk assessment being completed. The Director must ensure that all staff undertaking risk assessments understand the legal requirements.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Elizabeth Moody
Acting Prisons and Probation Ombudsman **December 2017**

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Summary

Events

1. On 1 April 1982, Mr Carlos Thomas received an indeterminate sentence for public protection for sexual offences. On 21 February 2017, he moved from HMP Rye Hill to HMP Oakwood.

HMP Rye Hill

2. At Rye Hill, Mr Thomas was treated for several serious illnesses, including bladder cancer. In May 2016, a prison GP referred him to hospital for lower gastrointestinal cancer services under the NHS pathway, which requires patients with suspected cancer to be seen within two weeks. The hospital was unable to diagnose Mr Thomas' health issues and, after further investigation, decided against further medical intervention.

HMP Oakwood

3. On 21 February 2017, Mr Thomas was transferred to Oakwood. A nurse noted that Mr Thomas was a smoker, had lung problems and a history of asthma. She assessed him as fit to live on a standard wing, attend gym and work. On 10 March, care plans were created to manage his asthma and lung problems and to monitor his cancer risk.

4. On 6 April, a nurse examined Mr Thomas after he complained of abdominal pain. He could not lie down and had not opened his bowels for three days. The next day a prison-based paramedic assessed Mr Thomas and diagnosed constipation. He saw him again on 10 April and gave him senna (a laxative).

5. On 12 April, the paramedic examined Mr Thomas because he said he felt short of breath. The paramedic noted that Mr Thomas was able to talk in full sentences, his oxygen saturation level was 98% and that he had passed a small amount of stool. He advised him to continue taking senna.

6. Over the next two weeks, Mr Thomas was given laxatives and stool softeners and the prison GP conducted blood tests. On 2 May, the prison GP examined him and noted he had had stomach pain for six weeks. He told the duty Director that Mr Thomas needed to go to hospital as soon as possible. This did not happen and the prison has not provided an explanation for this failure. Mr Thomas' blood test results were abnormal, and on 4 May, the prison GP sent the results to hospital.

7. On 13 May, Mr Thomas complained of stomach pain but refused pain relief or senna. A nurse examined him and noted yellowing to his eyes and that he had had constipation for six to eight weeks. His stomach was hard and bloated. The nurse liaised with his colleague, who examined Mr Thomas the next day and noticed he had not been to hospital. Due to the length of time he had been in pain and had bowel distension (where substances, such as air or fluid, accumulate in the abdomen causing its outward expansion beyond the normal girth of the stomach), the nurse asked for Mr Thomas to be transferred to hospital.

8. Mr Thomas was assessed as a medium risk to the public and a low risk to staff, of hostage taking, escape potential and outside assistance. A senior manager authorised the use of an escort chain, which was removed the next day.

9. In hospital, a scan confirmed a cancerous mass in Mr Thomas' abdomen, which had spread to other parts of his body. He died on 18 May of advanced oesophageal malignancy with metastatic disease (oesophageal cancer) and bronchopneumonia.

Findings

Clinical care

10. We are concerned that during the three months that Mr Thomas spent at Oakwood his cancer care plan to monitor his risk was not followed, there were no multi-disciplinary meetings (MDTs) and staff did not liaise with Macmillan. If the plan had been followed, Mr Thomas' history and symptoms would have been discussed at MDTs and it is possible that he would have been referred to hospital earlier. In addition, a duty director failed to send him to hospital in line with the prison GP's instructions and nobody followed this up in the subsequent ten days. It is a cause for concern that Oakwood have not provided us with an explanation for these deficiencies.

11. Although these factors may not have impacted on Mr Thomas' prognosis, the care he received at Oakwood was not equivalent to that which he could have expected to receive in the community.

Restraints, security and escorts

12. While the Prison Service has a responsibility to protect the public, security must be balanced with humanity and be legally justified. Despite previous recommendations, there is no evidence that staff took Mr Thomas' physical health or age into consideration when he was taken to hospital. We are therefore concerned that the risk assessment process was not followed.

PPO liaison arrangements

13. Oakwood failed to provide an explanation as to why Mr Thomas was not transferred to hospital despite our repeated requests for this information. There is a clear policy that sets out the requirements on prisons to facilitate PPO investigations. We do not consider that those requirements were fulfilled.

Recommendations

- The Director and Head of Healthcare should investigate the incident on 2 May when the prison GP asked for Mr Thomas to be transferred to hospital as soon as possible and establish why this was not actioned and why this was not noticed for 10 days. The lessons learned from this investigation should be included in a clear policy covering referral recommendations by the medical staff, including who is responsible for ensuring that the referral is actioned. A copy of the investigation report and resulting policy document should be provided to this office within three months of the date of this report.

- The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.
- The Director should ensure that, in line with PSI 58/2010, the Prisons and Probation Ombudsman is promptly provided with all requested information after a death in custody.

The Investigation Process

14. The investigator issued notices to staff and prisoners at HMP Oakwood informing them of the investigation and asking anyone with relevant information to contact her. No one responded.

15. The investigator obtained copies of relevant extracts from Mr Thomas' prison and medical records.

16. NHS England commissioned a clinical reviewer to review Mr Thomas' clinical care at the prison.

17. We informed HM Coroner for Staffordshire South of the investigation. We have sent the coroner a copy of this report.

18. The investigator wrote to Mr Thomas' nephew to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He did not respond.

19. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Background Information

HMP Oakwood

20. HMP Oakwood opened in 2012. It is managed by G4S and is one of the largest prisons in England and Wales, providing places for around 2,100 male prisoners.

21. Care UK provides healthcare services, including a daily GP clinic, some specialist services and out-of-hours GPs.

HM Inspectorate of Prisons

22. The last inspection of HMP Oakwood was in December 2014. Inspectors reported that health services had improved considerably since the last inspection and, overall, were reasonably good. The range of services was appropriate and prisoners with lifelong or complex health needs were very well managed, although staff shortages had led to a backlog of nurse reviews. Inspectors found that the healthcare rooms were well equipped and staff created appropriate care plans. However, the high demand for staff to arrange external hospital appointments and insufficient escort staff often led to delays.

Independent Monitoring Board

23. Each prison has an Independent Monitoring Board made up of unpaid volunteers from the local community who help to help ensure that prisoners are treated fairly and decently. In its latest annual report for the year to March 2016, the IMB reported that, due to the uncertainty arising from the change of healthcare provider (Worcester Health and Care Trust provided healthcare services before April 2016), a high number of vacancies and the use of agency staff had lowered the continuity of care for prisoners.

Previous deaths at HMP Oakwood

24. Mr Thomas was the fifth prisoner to die from natural causes at Oakwood since January 2017. We have made two previous recommendations, in October 2016 and August 2017 about the inappropriate use of restraints, which Oakwood agreed to implement.

Key Events

25. On 1 April 1982, Mr Carlos Thomas received an indeterminate sentence for public protection for sexual offences.

HMP Rye Hill

26. Mr Thomas had a history of bladder cancer, an enlarged prostate and had had an orchidectomy (a surgical procedure to remove his testicles). In May 2016, after he complained of weight loss and fluctuating bowel habits, a prison GP referred Mr Thomas to hospital for lower gastrointestinal cancer services under the NHS pathway, which requires patients with suspected cancer to be seen within two weeks. The hospital was unable to diagnose Mr Thomas' health issues and after further investigation, decided against further medical intervention.

HMP Oakwood

27. On 21 February 2017, Mr Thomas was transferred to HMP Oakwood. A murse assessed him on his arrival. She noted he was a smoker, had lung problems and a history of asthma. She assessed Mr Thomas as fit to live on a standard wing and attend gym and work. On 10 March, a nurse created care plans to manage and monitor his asthma, lung problems and cancer risk which included liaising with Macmillan nurses for advice and discussing Mr Thomas' ongoing risk during multi-disciplinary team meetings.

28. On 6 April, a nurse examined Mr Thomas in his cell at the request of wing staff. He had abdominal pain and could not lie down. He had not opened his bowels for three days. She booked an appointment for him to see a prison-based paramedic.

29. The next day, the paramedic assessed Mr Thomas and diagnosed constipation. He saw him again on 10 April for a follow-up appointment. Mr Thomas said he was still constipated and taking Lactulose (a stool softener) which he had been prescribed at Rye Hill. The paramedic asked nurses to give Mr Thomas senna (a laxative).

30. On 12 April, Mr Thomas said he felt short of breath. The paramedic assessed him and noted that he did not appear to be short of breath because he could talk in full sentences, had an oxygen saturation level of 98% and had passed a small amount of stool. Despite this, he asked Mr Thomas to collect senna from the dispensary.

31. On 19 April, a nurse gave Mr Thomas more Lactulose for his constipation. The same day, a prison GP prescribed Docusate (a stool softener) and carried out a number of blood tests.

32. On 2 May, a prison GP examined Mr Thomas and noted that he had had stomach pain for six weeks. He telephoned the duty Director and told him that Mr Thomas needed to be taken to hospital as soon as possible. Mr Thomas was not taken to hospital. The duty Director has since left Oakwood and in his absence the prison has not provided us with any explanation of why the GP's request was not actioned.

33. On 13 May, Mr Thomas told a nurse that he had stomach pain. He refused pain relief or senna. Another nurse assessed him. He noted that Mr Thomas had yellowing to his eyes, that he had had constipation for six to eight weeks and that he had thrown the Docusate away after two days because it was not working. He felt Mr Thomas' stomach, which was hard and bloated. He noted he would check with another nurse. (There was no doctor in the prison because it was a Saturday.)

34. The next day, a nurse assessed Mr Thomas and saw the entry in his medical record on 2 May which said that he should go to hospital as soon as possible. She noted that this had not happened. Due to the length of time he had been in pain and the fact that he had bowel distension (where substances, such as air or fluid, accumulate in the abdomen causing its outward expansion beyond the normal girth of the stomach), she arranged for Mr Thomas to be transferred to hospital that day (14 May).

35. Mr Thomas was assessed as a medium risk to the public and a low risk to staff, of hostage taking, escape potential and outside assistance. A senior manager authorised the use of an escort chain, which was removed the next day.

36. In hospital, a doctor identified a lump in Mr Thomas' abdomen. A scan on 17 May, confirmed a cancerous mass, which had spread to other parts of his body. Mr Thomas' health declined and he died on 19 May.

Contact with Mr Thomas' family

37. On 17 May, the prison appointed a senior manager as the family liaison officer. On 19 May, after several enquiries, the police provided contact details for Mr Thomas' nephew. The manager contacted him immediately and informed him of Mr Thomas' death. Mr Thomas' funeral was held on 2 June and the prison contributed to the costs in line with national policy.

Support for prisoners and staff

38. After Mr Thomas' death a senior manager debriefed the staff involved in the emergency response to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.

39. The prison posted notices informing other prisoners of Mr Thomas' death, and offering support. Staff reviewed all prisoners assessed as being at risk of suicide or self-harm in case they had been adversely affected by Mr Thomas' death.

Post-mortem report

40. A hospital doctor gave the cause of death as bronchopneumonia and advanced oesophageal malignancy with metastatic disease (oesophageal cancer).

Findings

Clinical care

41. Mr Thomas was an elderly man with a range of complex health conditions. When he arrived at Oakwood, healthcare staff assessed him appropriately and there were care plans in place for cancer, lung problems and asthma. However, healthcare staff at Oakwood failed to follow Mr Thomas' cancer care plan appropriately, given his previous history cancer: there was no recorded liaison with Macmillan nurses seeking advice, or of multi-disciplinary meetings. Although these factors may not have impacted on Mr Thomas' prognosis, had the care plan been followed, an association may have been made earlier between Mr Thomas' symptoms and the likelihood that he had cancer.

42. We are concerned that on 2 May, the duty Director (who has since left Oakwood) did not send Mr Thomas to hospital as the prison GP requested, and that nobody followed this up in the subsequent ten days. We agree with the clinical reviewer that although this delay may not have impacted on Mr Thomas' prognosis, the care he received at Oakwood was not equivalent to that he could have expected in the community. We make the following recommendation:

    The Director and Head of Healthcare should investigate the incident on 2 May when the prison GP asked for Mr Thomas to be transferred to hospital as soon as possible and establish why this was not actioned and why this was not noticed for 10 days. The lessons learned from this investigation should be included in a clear policy covering referral recommendations by the medical staff, including who is responsible for ensuring that the referral is actioned. A copy of the investigation report and resulting policy document should be provided to this office within three months of the date of this report.

PPO liaison arrangements

43. National policies set out in Prison Service Instruction (PSI) 58/2010 require all staff to co-operate fully with requests for information from the Prisons and Probation Ombudsman. It is disappointing therefore that the prison failed to provide an explanation for the failure to transfer Mr Thomas to hospital despite our repeated requests for information from the Deputy Director, Head of Healthcare and the prison GP. This has implications for the overall accuracy, timeliness and quality of the investigative process. We make the following recommendation to ensure that this lack of co-operation does not occur during any future investigations:

    The Director should ensure that, in line with PSI 58/2010, the Prisons and Probation Ombudsman is promptly provided with all requested information after a death in custody.

Restraints, security and escorts

44. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be

necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility.

45. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.

46. When Mr Thomas went to hospital on 13 May as a non-emergency transfer, a senior manager authorised the use of an escort chain, taking into consideration Mr Thomas' risk factors (medium risk to the public and a low risk to staff, of hostage taking, escape potential and outside assistance). Despite this, he failed to seek medical opinion about Mr Thomas' health at the time, as he should have done, and the section in the risk assessment which requires medical input has been crossed out in manuscript. We are therefore concerned that the risk assessment process was not completed. In light of his age and physical health at the time, this decision might not have been appropriate.

47. While the Prison Service has a responsibility to protect the public, security must be balanced with humanity and be legally justified. We are concerned that despite our previous recommendations about the use of restraints, which Oakwood agreed to implement, we must repeat the following recommendation:

The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

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